

Gender Justice and Training for the Iraq High Tribunal

Sponsoring Organizations

Women's Alliance for a Democratic Iraq (WAFDI): www.wafdi.org

The Women's Alliance for a Democratic Iraq (WAFDI) is an international non-partisan and not-for-profit women rights organization. WAFDI is dedicated to a free and democratic Iraq with full and equal individual rights for women.

WAFDI is committed to the advancement and empowerment of women in all areas of society including but not limited to family, economics, education, health, arts, literature, sports, and politics. Grounded in the vision of equality of all individuals in the United Nations Charter and the Universal Declaration of Human Rights, WAFDI advocates the improvement of the status of all Iraqi women and their interests for the achievement of their equality with men in the future constitution of Iraq, which shall guarantee that women represent no less than 30% of all committees, bodies and structures of governance in Iraq. WAFDI aims to ensure the participation of women as equal partners with men in all aspects of human endeavour.

WAFDI is committed to a society free of gender bias that allows and promotes equal participation of men and women in all areas of society, education, employment, religion, and family.

Global Justice Center (GJC): www.globaljusticecenter.net

The Global Justice Center equips leaders in developing democracies with the legal tools to enforce women's rights to equality in political representation and in doing so, redefine democracy for the twenty-first century. The Global Justice Center is a non-profit, non-governmental organization supported by contributions from private individuals and foundations worldwide. The Global Justice Center works to:

- Target the entrenched political and cultural norms that perpetuate male dominated decision-making bodies and constrain women;
- Use human rights and international law as tools to restructure societies in ways that enable women to take their rightful place in national and international governance bodies;
- Identify activists, leaders, judges, and policymakers and train them in the affirmative use of women's human rights and international law as tools for constructing new democracies, governments, and transitional bodies;
- Transform the operational definition of democracy to one that is truly representative.

International Coordination for Gender Justice In Iraq (ICGJI)

The International Coordination for Gender Justice in Iraq (ICGJI) works with like minded organisations and individuals who are working for gender justice in Iraq based on respect for human life and human dignity; coordinating such efforts and working together with diverse partners on common issues.

The ICGJI seeks to uphold the rule of law, increase awareness of international agreements regarding women, support the participation of women in the legal system within Iraq and ensure the voice of women is heard through all possible means.

Gender Justice In Iraq

Since 2004, the Global Justice Center (GJC) and representatives of Iraqi women's NGOs have conducted a series of trainings to advance women's right to government and transitional justice processes in Iraq. GJC President Janet Benshoof, in collaboration with several Iraqi women's groups, has led three trainings in the Middle East for women leaders on international law and women's rights and has provided substantial consultation to Iraqi women's groups in the Diaspora on their international legal rights. In all of their joint efforts, the GJC and Iraqi women have stressed that women's participation in the legislature is not a sufficient measure of women's inclusion in decision-making bodies in a new Iraq, or in the process of transitional justice.

Women's access to any justice or redress for crimes committed under Saddam Hussein's rule is threatened by several factors including cultural taboos around sex (including rape), women's legal exclusion from the Iraqi, and the lack of technical and financial support given to the Iraqi High Tribunal (IHT) to carry out their mandate, which includes administering justice to all Iraqi victims of war crimes. This training was critical as women's historic lack of access to any justice for sex crimes increased under Saddam's rule due to his rulings in 1984 that women be prohibited from the Judicial training institute and in 1991 increasing legal impunity for honor killings. The GJC works with Iraqi women's groups to ensure that the IHT is sensitive to the particular concerns of women after conflict, affirmatively reaches out to women to encourage their participation in the process of national reconciliation and justice, incorporates a gender perspective in the work of the tribunal, and prosecutes perpetrators of gender-based crimes.

Gender Training of the Iraq High Tribunal Judges

At the request of the Judges of the Iraqi High Tribunal, the GJC and WAFDI led two trainings for the IHT Judges in 2006. A pilot training in Baghdad in March 2006 gathered information on gaps in the training the IHT judges had received on international law, as well as to inform the strategy of Iraqi women in working with the tribunal to access justice. Last week, November 13-15, 2006, the GJC and the WAFDI led a three-day training with international expert trainers and Iraqi women civil society participants. This historic training, which took place in Jordan, marked the first time ever that judges in the Middle East have spoken with women about sex, sexual violence, and honor killings.

The War Crimes Tribunal in Iraq is operating under an "ICC look-alike" Statute (2005 IHT Statute). Thus, for the first time, Iraqi judges are charged with enforcing international law including gender crimes as defined by the Rome Treaty. At the March 2006 pilot training, it became clear that the IHT Judges, who have been largely isolated from the advances in international law over the past quarter century (and the particular advances in international law relating to gender), had received no previous training on such key international treaties and resolutions as CEDAW and Security Council Resolution 1325. They were unaware of the advances in international jurisprudence on gender and war crimes developed at the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) which define rape as torture, a crime against humanity and in some cases, genocide. This education is required to successfully recognize and prosecute gender crimes in Iraq and ultimately reform the country's penal code based on its progressive (war crimes) Tribunal Statute. The March training also confirmed the great cultural barriers that need to be overcome to successfully produce "climate change" around sex related crimes in Iraq such that women do not continue to suffer from double victimization (through honour killings) when these crimes are perpetrated against them.

On November 13-15, 2006, the GJC and WAFDI again convened the Judges of the IHT in Amman, Jordan. In this second and more extensive training, six of the leading experts on gender and war crimes came together to discuss the inclusion of women in the Iraqi transitional justice process and instruct the judges on issues ranging from how a judge incorporates CEDAW and SCR 1325 into an opinion to discussions of international legal definitions of rape and the illegality of marital rape (a topic of significant debate at the November training). To compliment the legal instruction, medical and mental health experts in attendance provided in depth information about the lasting psychological and physical impacts of sexual violence, the trauma of providing testimony, and their implications for trying gender crimes.

Iraqi Women and Gender Justice

During the training, legal experts defined and contrasted gender crimes in Iraq domestic law and international law. It provided legal analysis, based on the work of other international criminal tribunals, to convince the judges that prosecution of sexual violence and gender-based crimes, is not only in the interest of justice, but required under Iraq's legal obligations to international law. Experts cited key cases of measures taken by other tribunals to ensure gender justice. Judges were reminded of how Iraqi women have been excluded from trying the Saddam regime crimes that targeted women, the same as they were excluded from the judiciary under Saddam. Furthermore, the judges were troubled by learning that Iraqi women (their mothers, sisters, and daughters), under the IHT statute, do not receive the same rights as women in other war crimes tribunals (i.e. a gender officer). In addition to demonstrating the responsibility of the IHT to ensure gender justice for Iraqi women, the international legal experts and Iraqi women extolled the potential impact of the IHT on the future of Iraqi women's legal rights.

Lasting Effects of Gender Crimes

Leading medical and psychological experts explained the lasting physical and psychological consequences of gender crimes including the effects of rape as torture. They detailed the challenges of overcoming the trauma associated with rape and the implications that such effects can have in achieving justice. When women blame themselves for the violent crimes committed against them, and when they fear violent and social consequences of coming forward, healing is virtually impossible and prosecution of these crimes becomes an obstacle. Reaching out to women victims and developing alternative means of providing testimony such as video testimony and counselling are instrumental in successful indictments and prosecution of sexually based crimes. The training utilized written and videotaped testimony of victims of sexual violence in Iraq to underscore the importance of gender justice in the healing process. Iraqi women explained to the judges how vital it is for the Iraqi High Tribunal to prosecute honour killings to combat the double victimization of Iraqi women and set a legal precedent for the region on honour killings and mitigated sentencing.

Incorporation of CEDAW and Security Council Resolution 1325

International legal recognition of gender crimes is imperative in ensuring women's access to justice moving forward. Successful inclusion of and prosecution of gender crimes in the ICTY, the ICTR, and the International Criminal Court were instrumental in establishing an international legal precedent for gender justice for all future war tribunals. As the inclusion and development of gender crimes statutes is a progressive and evolving process, discussion focused on the opportunity the Iraq High Tribunal judges have to set an international legal precedent for incorporating CEDAW and SCR 1325 in a war tribunal context. This training explained how CEDAW and SCR 1325 could be written as the legal argument in an opinion. Iraqi women and international legal experts highlighted how CEDAW and SCR 1325, as a result of the work of the IHT, could be incorporated into domestic law ensuring Iraqi women have the highest standards for women's rights and equality in the world.

International Coordination for Gender Justice in Iraq

Given the challenges faced in reforming laws in Iraq to protect the rights of women and the many obstacles to women's testimony about gender crimes under Saddam Hussein, a broad-based coalition of Iraqi groups and members of the international community are engaged in efforts to encourage Iraqi High Tribunal Judges to adopt an internationally established approach to the way gender crimes are tried during the war crimes proceedings and after, as well as to put in place the necessary programs to help bring women forward to tell their stories. Members of the GJC, the Women's Alliance for a Democratic Iraq (WAFDI), and the National Alliance of Women's Organizations (NAWO) thus organized meetings in London to address these concerns in June 2006. On November 24, 2006, the result of this effort will be the launch of a new organisation, International Coordination for Gender Justice In Iraq (ICGJI), a London-based group founded to advocate for a gender perspective and gender justice in the work being done at the Tribunal.

Since June 2006, the ICGJI, in partnership with the GJC, has been responsible for the inclusion of Iraq and the IHT in the work of the newly launched Associated All Party Group (APG) on women peace and security in the House of Commons UK. They have also furthered discussion of the Iraqi Tribunal's unique position to advance women's rights during SCR 1325 advocacy week at the United Nations in New York. The ICGJI, with the counsel of the GJC, is also coordinating the drafting of an amicus brief to the IHT to ensure prosecution of gender-based crimes of violence and provide the international legal argument for said prosecution. The ICGJI amicus brief has received pledges of signatures from major human rights groups, international rights lawyers, mental health professionals, and others.

By raising awareness about women, the IHT and gender justice in Iraq, the GJC, Iraqi women, and ICGJI have amplified Iraqi women's right to recognition for their particular hardships. Through the judges training, the GJC, Iraqi women and ICGJI have ensured that despite what happens in Iraq, its judges are encouraged by a desire to help Iraqi women access justice, as members of the war crimes tribunal, and as the highest level judges in Iraq. This is a necessary step for any future reconciliation in Iraq and critical to the process of healing as a nation.

Looking Ahead: Priorities for Gender Justice in Iraq

Future work of the ICGJI, the Global Justice Center, and Iraqi women's NGOs for the advancement of gender justice for Iraqi women will entail:

- Advocating for a gender officer for the Iraq High Tribunal to sustain the progress made during the November gender training
- Utilizing the unique expertise developed at the IHT training to train judges in other Muslim countries on gender rights and international law
- Securing financial support for the gender component of the Iraq High Tribunal
- Submitting an amicus brief to the Iraq High Tribunal for prosecution of gender-based crimes
- Garnering media/international attention and providing public education for gender justice in Iraq
- Continuing to support the tribunal's progressive interest in women's rights